

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-1688V

Filed: August 9, 2017

UNPUBLISHED

DAVID BYRD,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Causation-In-Fact; Influenza (Flu)  
Vaccine; Shoulder Injury Related to  
Vaccine Administration (SIRVA)

*Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for petitioner.*

*Ryan Daniel Pyles, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On December 22, 2016, David Byrd (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he received an influenza (“flu”) vaccine on January 29, 2016, and thereafter suffered a shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 9, 2017, respondent filed his Rule 4(c) report and Proffer in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report/Proffer at 1. Specifically, respondent states that “petitioner’s alleged injury is consistent with SIRVA; that a preponderance of the evidence establishes that his

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

SIRVA was caused-in-fact by the flu vaccination he received on January 29, 2016; and that no other causes for petitioner's SIRVA were identified. *Id.* at 2. Respondent further agrees that the statutory six month sequela requirement has been satisfied. *Id.* at 2-3.

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master